

January 18, 2023



Request for Proposals

Operations, Housing & Social Service Provision for
Oxford House Project

January 18, 2023

CITY OF LACEY

Request for Proposals

Operations, Housing & Social Service Provision for Oxford House Project

SECTION I – Background.

The City of Lacey (City), a municipal corporation, is accepting proposals from qualified organizations to provide operations, housing and social services for the Oxford House Project.

The City received \$499,550 from the Washington State legislature in 2022 for purchase and/or rehabilitation of a residential facility (e.g., single family house, duplex, etc.) to provide for an Oxford House. The residential facility is required to be long-term affordable housing. This will be accomplished through a deed restriction.

The City of Lacey is committed to supporting affordable housing in the community and preventing homelessness through a multifaceted approach that includes collaborating with non-profits, community members, other municipalities, and state and federal entities.

The City welcomes proposals from organizations of all types and sizes. Joint proposals from two or more organizations will also be considered.

SECTION II – Scope of Services.

The City is looking for a service provider to provide the following services for the Oxford House Project for a two (2) year period:

1. **Purchase and/or rehabilitation of a residential facility (e.g., single family house, duplex, etc.) for use as an Oxford House.** The residential facility must be located in Lacey and must allow for a minimum of four program participants at a time.
2. **Find and select Oxford program participants.** Program participants (minimum of four at a time) are to be individuals recovering from addiction who want to remain abstinent and will abide by Oxford Housing rules and programming. Preference for participants should be given to individuals in Lacey to the greatest extent possible.
3. **Provide Oxford House operations, services, and case management for program participants.** Manage Oxford House operations, services and case

January 18, 2023

management of program participants. Case management shall include, but is not limited to: Oxford House programming, wrap-around case management that includes individualized plans for each participant covering education, employment, housing, and addiction recovery and rehabilitative support.

4. **Provide all furnishings for the property.** The residential building will likely be unfurnished and will require all furnishings, including furniture and daily household items, prior to participant occupancy.
5. **Provide Program Performance Measures.** At a minimum, providers must collect the following program performance measurements:
 - A. Total number of participants served.
 - B. Total number of participants that successfully exit the program.
 - C. Average time of residency of participants in the program.
 - D. Hours of case-work performed per individual.
 - E. General summary of case-work performed.
6. **Provide an annual presentation to the Lacey City Council.** This presentation shall include an overview of services provided during the past year, in addition to program performance measurements and success stories.
7. **Estimated schedule.** The City is looking for a provider that can start housing program participants by September 30, 2023, at the latest.

SECTION III – Program Budget.

Applications completed in response to this RFP should include a realistic budget in accordance with the proposed project for a two (2) year period. Cost may be an evaluation factor.

SECTION IV – Project Timeline.

January 18, 2023	RFP issued
February 10, 2023	Proposal questions due
March 3, 2023	Proposal packets due

Anticipated Review Timeline

March 10, 2023	Evaluations of packets and finalists selected
March 17, 2023	Potential presentations and interviews with selected finalists
March 24, 2023	Selection of Service Provider

SECTION V – Submission Requirements.

January 18, 2023

Information that is required from the applicant as part of the proposal shall include:

1. **Submission Letter (1-page limit).** The Submission Letter must include the following:
 - A. RFP number and Project title;
 - B. Full legal name, address, e-mail address, and telephone number of the organization, and the primary contact;
 - C. Name(s) of the person(s) authorized to represent the proposer in any negotiations;
 - D. Name(s) of the person(s) authorized to sign any contract that may result and a statement that the Proposal will be valid for 90 days; and
2. **Project Team (2-page limit)**
Description of your organization and key personnel that would work on this project.
3. **Qualifications and Experience (2-page limit).** Provide an overview of your organization's qualifications and experience providing similar or comparable services.
4. **Project Approach (6-page limit)**
Based on the information provided within this RFP, provide answers to the following questions:
 - A. **Purchase and/or rehabilitation of a house.** Describe how your organization would procure a residential facility for this project (e.g., purchase or partnership)? Note: The residential facility purchased is required to stay as long-term affordable housing using a deed restriction.
 - B. **Program Outreach:** How would your organization provide program outreach? What do you anticipate would be your timeline for finding at minimum four (4) program participants? Describe program outreach efforts throughout the duration of the two-year program.
 - C. **Oxford Operations, Services, and Case management:** Please describe how your organization would provide Oxford House operations, services, and case management.
 - D. **Program Furnishing:** Please describe how your organization would provide program house furnishings (e.g., furniture, household goods, etc.) as well as any other needed furnishings?

January 18, 2023

5. **Readiness of the Project (2-page limit):** Provide an anticipated timeline for providing the scope of services outlined above.

6. **Budget (2-page limit)**

Provide a detailed budget of anticipated program expenditures for a two (2) year period and delineate funding sources. The budget should outline specific operations and services costs.

For program sustainability, provide information on if and how you see your organization providing services to the Oxford House Project after the City funded two-year period?

7. **Diversity, Equity, and Inclusion (1-page limit).** Provide an account of what a commitment to Diversity, Equity, and Inclusion means to your organization and how it is operationalized in your organization's policies, programs, and practices.

8. **References (1-page limit)**

Provide a list of at least three (3) references for which your organization has provided similar, or comparable, work products and services. References are to include:

A. Company Name

B. Address

C. Contact

D. Title

E. Phone Number

SECTION VI: Submittal Deadline.

RFPs for this work must be received no later than 5:00 p.m., Pacific Standard Time (PST) on **March 3, 2023**. Organizations interested in being considered for this project must submit one (1) electronic copy in PDF format via e-mail to skelley@ci.lacey.wa.us. All submissions will be acknowledged through a response email within two (2) business days.

Late proposals will not be considered and (if mailed) will be returned unopened to the sender.

January 18, 2023

Proposals should be addressed to Project Manager:

Shannon Kelley-Fong
Assistant City Manager
420 College Street SE
Lacey, WA 98503
skelley@ci.lacey.wa.us
(360) 412-2891

Proposals must be clear, succinct and **not exceed the page limits outlined above.**
Note: Title page, table of contents, cover letter, and Supporting Information section do not count in the overall page count of the proposal. Proposers who submit more than the pages indicated may not have the additional pages of the proposal read or considered.

Minority and women-owned organizations are encouraged to apply.

SECTION VII: Communication for Questions and Answers.

In order to ensure that all potential Proposers have the same information and the same opportunity to make their very best proposal, all questions will need to be submitted electronically to skelley@ci.lacey.wa.

Questions will be answered as received. All questions should be submitted no later than February 10, 2023 at 5:00 p.m. PST.

Answers and interpretations to all inquiries will be posted at the following locations no later than February 17, 2023, by 5:00 p.m. (PST):

The City of Lacey's solicitation page under "RFP: Housing and Social Services Provision for Oxford House Project" at: <https://cityoflacey.org/rfp-rfq-rfi/>

SECTION VIII: Evaluation and Selection Process.

The City reserves the right to award the contract to the proposal which best meets the needs and interests of the City, or to reject all proposals as set forth below. The following steps are anticipated:

1. Receipt and review of qualifications and written proposals.
2. Initial reference and information check.
3. City follow-up with respondents and possible interview and/or presentation.
4. Selection of service provider.
5. Negotiation of contract.

January 18, 2023

6. Contract approval.

The proposals will be evaluated, generally, in accordance with the criteria itemized in **Table A** below.

Table A	
Evaluation Criteria	Weight
Qualifications & Experience of the Organization	20 pts
Project Approach (Operations, Services, & Case Management)	20 pts
Readiness of the Project	20 pts
Budget and Program Sustainability	20 pts
References (references, past performance on projects of similar size and nature)	10 pts
Responsiveness to solicitation requirements	10 pts
Total	100 pts

SECTION IV: Draft City of Lacey Professional Services Agreement

Addendum A provides a draft City of Lacey Professional Services Agreement.

SECTION V: Terms and Conditions.

1. The City of Lacey reserves the right to reject any and all proposals and to waive minor irregularities in any proposal.
2. The City of Lacey reserves the right to request clarification of information submitted, and to request additional information from any consultant.
3. The City of Lacey reserves the right to award any contract to the next most qualified consultant if the successful consultant does not execute a contract within thirty (30) days after the selection of the consultant.
4. Any proposal may be withdrawn up until the date and time set forth above for opening of proposals. Any proposal not so timely withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days to provide the City of Lacey the services described in the attached specifications or until one or more of the proposals have been approved by the City of Lacey, whichever occurs first.
5. The contract resulting from the acceptance of the proposal by the City of Lacey shall be in the form supplied or approved by the City of Lacey, and shall reflect the specifications in this RFP. A copy of the City of Lacey's standard contract is included with this RFP, see **Addendum A**. Proposers should review all of the terms and conditions of the contract, including indemnity and insurance requirements, to ensure that they are able to execute and comply with all of the terms and conditions specified in the contract. The City of Lacey reserves the right

January 18, 2023

to reject any proposed agreement or contract that does not conform to the specifications contained in this RFP and which is not approved by the City of Lacey.

6. The City of Lacey shall not be responsible for any costs incurred by the firm in preparing, submitting, or presenting its response to the RFP. The City of Lacey shall not be responsible for any costs incurred by the firm for any work in anticipation of being awarded the contract, any work performed prior to the execution of the contract, or any work outside of the scope of the contract unless the contract is modified to include any such work.
7. All proposals and information included therein or attached thereto submitted in response to this RFP shall become public record upon proposal opening and will be available for review upon request.

The City will disclose those parts of records the proposal has marked "proprietary information" only to authorized persons unless: (a) the City discloses the records in response to a public disclosure request or (b) the proposer has given the City express advance written permission to disclose the records. "Authorized persons" means those City officers and employees for whom the proprietary information is necessary to evaluate proposal and to perform their duties or obligations to the City.

If the City receives a public disclosure request for records that the proposer has marked "proprietary information", the City may promptly notify the proposer of the request. The City may postpone disclosing these records for thirty (30) business days after it has sent notification to the proposer, in order to allow the proposer to file a lawsuit to enjoin disclosure. If the City has notified the proposer of a public disclosure request, and the proposer has not obtained an injunction and served the City with that injunction by the close of business on the tenth business day after the City sent notice, the City will then disclose the record.

8. Compensation:

- A. Upon selection of the most qualified firm, the City of Lacey will negotiate a price which it determines fair and reasonable. If the City of Lacey is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm will terminate and the City of Lacey may select another firm.
- B. Payment by the City of Lacey for the services will only be made after the services have been performed, an itemized billing statement is submitted in the form specified by the City of Lacey, which shall specifically set forth the services performed, the name of the persons performing such services, and

January 18, 2023

the hourly labor charge rate for such person. Payment shall be made on a monthly basis thirty (30) days after receipt of such billing statement.

9. Post-Closing Discussion:

A. After any responses are open, conversations may take place between the City of Lacey and organizations for purposes of clarification regarding the selection process only. Organizations shall be bound by the information submitted in their proposals and subsequent negotiations.

B. Those submitting proposals may be required to make a presentation to the City of Lacey as part of the selection process. The presentation team should include the Project Manager and any other key personnel necessary to address administrative and technical issues.

10. Proposal Acceptance/Rejection: The City of Lacey reserves the right to accept or reject any or all proposals received from this RFP, or to negotiate separately with any Proposer, and to waive any informalities, defects or irregularities in any proposal, or to accept that proposal which, in the judgment of the proper officials, is in the best interest of the City of Lacey.

11. Award: The City of Lacey reserves the right to award the contract to a consultant that it deems to offer the best overall proposal. The City of Lacey is therefore not bound to accept a proposal on the basis of lowest price, and further, the City of Lacey has the sole discretion and reserves the right to cancel this RFP, to reject any and all proposals, to waive any and all irregularities, or to re-advertise with either the identical or revised specifications if it is deemed to be in the best interest of the City.

12. Assignment: The awarded contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award or any of its rights, title, or interests therein, without the prior written consent of the City of Lacey.

13. Additional Language: The City of Lacey reserves the right to introduce additional terms and conditions at the time the final contract is negotiated. Any additional terms or conditions would be limited to ones having the effect of clarifying the RFP language and/or correcting defects, such as omissions or misstatements, which are discovered after the RFP is issued, or that reflect State or Federal Law changes, or as required by funding entities.

January 18, 2023

Addendum A

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made by and between the City of Lacey, a municipal corporation of the State of Washington, hereinafter "Jurisdiction" and <name of selected Company\Consultant, hereinafter "Designated Service Provider," jointly referred to as "Parties."

IN CONSIDERATION of the terms and conditions contained herein, the Parties agree as follows:

1. **Work to Be Performed**. Designated Service Provider shall provide all labor, services, and material to satisfactorily complete the Scope of Services, attached as Exhibit "A."
 - A. **Administration**. The Jurisdiction Manager or designee shall administer and be the primary contact for Designated Service Provider. Prior to commencement of work, Designated Service Provider shall contact the Jurisdiction Manager or designee to review the Scope of Services, schedule, and date of completion. Upon notice from the Jurisdiction Manager or designee, Designated Service Provider shall commence work, perform the requested tasks in the Scope of Services, stop work, and promptly cure any failure in performance under this Agreement.
 - B. **Representations**. Jurisdiction has relied upon the qualifications of Designated Service Provider in entering into this Agreement. By execution of this Agreement, Designated Service Provider represents it possesses the ability, skill, and resources necessary to perform the work and is familiar with all current laws, rules, and regulations which reasonably relate to the Scope of Services. No substitutions of agreed-upon personnel shall be made without the prior written consent of Jurisdiction.

Designated Service Provider represents that the compensation as stated in paragraph 3 is adequate and sufficient for the timely provision of all professional services required to complete the Scope of Services under this Agreement.

Designated Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom, and Jurisdiction shall not be responsible for discovering deficiencies therein. Designated Service Provider shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in Jurisdiction-furnished information.

- C. **Standard of Care**. Designated Service Provider shall exercise the degree of skill and diligence normally employed by professional consultants engaged in the same profession, and performing the same or similar services at the time such services

January 18, 2023

are performed.

D. Modifications. Jurisdiction may modify this Agreement and order changes in the work whenever necessary or advisable. Designated Service Provider shall accept modifications when ordered in writing by the Jurisdiction Manager or designee, so long as the additional work is within the scope of Designated Service Provider's area of practice. Compensation for such modifications or changes shall be as mutually agreed between the Parties. Designated Service Provider shall make such revisions in the work as are necessary to correct errors or omissions appearing therein when required to do so by Jurisdiction without additional compensation.

2. Term of Contract. The term of this agreement shall be from January 1, 2023 through December 31, 2026, unless sooner terminated as provided in this Agreement.

Either Party may terminate this Agreement for material breach after providing the other Party with at least 30 days' prior notice and an opportunity to cure the breach. Jurisdiction may, in addition, terminate this Agreement for any reason by 30 days' written notice to Designated Service Provider. In the event of termination without breach, Jurisdiction shall pay Designated Service Provider for all work previously authorized and satisfactorily performed prior to the termination date.

3. Compensation and Method of Payment.

A. The Jurisdiction shall pay Designated Service Provider for the performance of those services designated in Exhibit "A," an amount not to exceed \$*****. If the description of services on Exhibit "A" designates additional services which may be requested by the Jurisdiction, said additional services will be paid for by the Jurisdiction at the rate set forth on Exhibit "A," which sum may exceed the "not to exceed" amount set forth above; however, said services will only be performed and compensated by the Jurisdiction after the Jurisdiction has directed such performance in writing.

B. Payment by the Jurisdiction for services will only be made after the services have been performed, a voucher or invoice is submitted in the form specified by the Jurisdiction, and the same is approved by the appropriate Jurisdiction representative. Payment may be made on a monthly or other periodic basis and may be made on the basis of an estimate of the percentage of contract completion accomplished if said procedure is approved by the Jurisdiction.

C. If an hourly rate of compensation or other means of measurement is set forth on Exhibit "A," the parties intend that said measurement shall be used up to the "not to exceed" figure set forth above.

January 18, 2023

D. The Jurisdiction reserves the right to withhold payment under this Agreement for that portion of the work (if any) which is determined in the reasonable judgment of the Jurisdiction Manager or designee to be noncompliant with the Scope of Services, Jurisdiction standards, Jurisdiction Code, and federal or state standards.

4. **Notice.** Notices other than applications for payment shall be given in writing as follows:

TO THE CITY OF LACEY:

TO THE DESIGNATED SERVICE PROVIDER:

Name: *****

Name: *****

Phone:

Phone:

Address:

Address:

5. **Applicable Laws and Standards.** The Parties, in the performance of this Agreement, agree to comply with all applicable federal, state, and local laws and regulations. Designated Service Provider warrants that its designs, construction documents, and services shall conform to all federal, state, and local statutes and regulations.

6. **Title VI Assurances.**

A. The Designated Service Provider shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Jurisdiction, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

B. The Designated Service Provider, with regard to the work performed during this Agreement, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The Designated Service Provider shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when this Agreement covers a program set forth in Appendix B of the Regulations.

7. **Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions.**

A. By executing this Agreement, the Designated Service Provider certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

2. Have not within a three-year period preceding this proposal been convicted of

January 18, 2023

or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (A)(2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.

B. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Agreement.

8. **Relationship of the Parties.** It is understood and agreed that Designated Service Provider shall be an independent contractor and not the agent or employee of Jurisdiction, that Jurisdiction is interested in only the results to be achieved, and that the right to control the particular manner, method, and means in which the services are performed is solely within the discretion of Designated Service Provider. Any and all employees who provide services to Jurisdiction under this Agreement shall be deemed employees solely of Designated Service Provider. The Designated Service Provider shall be solely responsible for the conduct and actions of all its employees under this Agreement and any liability that may attach thereto.
9. **Ownership of Documents.** All drawings, plans, specifications, and other related documents prepared by Designated Service Provider under this Agreement are and shall be the property of Jurisdiction, and may be subject to disclosure pursuant to chapter 42.56 RCW or other applicable public record laws. The written, graphic, mapped, photographic, or visual documents prepared by Designated Service Provider under this Agreement shall, unless otherwise provided, be deemed the property of Jurisdiction. Jurisdiction shall be permitted to retain these documents, including reproducible camera-ready originals of reports, reproduction quality mylars of maps, and copies in the form of computer files, for the Jurisdiction's use. Jurisdiction shall have unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data, drawings, images, or other material prepared under this Agreement, provided that Designated Service Provider shall have no liability for the use of Designated Service Provider's work product outside of the scope of its intended purpose.
10. **Records.** The Jurisdiction or State Auditor or any of their representatives shall have full

January 18, 2023

access to and the right to examine during normal business hours all of Designated Service Provider's records with respect to all matters covered in this Agreement. Such representatives shall be permitted to audit, examine, make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, and record of matters covered by this Agreement for a period of three years from the date final payment is made hereunder.

11. **Insurance.** Designated Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Designated Service Provider, its agents, representatives, employees, or subcontractors.
 - A. **Minimum Scope of Insurance.** Designated Service Provider shall obtain insurance of the types described below:
 1. Automobile liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
 2. Commercial general liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury, and advertising injury. Jurisdiction shall be named as an additional insured under Designated Service Provider's commercial general liability insurance policy with respect to the work performed for the Jurisdiction using an additional insured endorsement at least as broad as ISO CG 20 26.
 3. Workers' compensation coverage as required by the industrial insurance laws of the State of Washington.
 4. Professional liability insurance appropriate to Designated Service Provider's profession.
 - B. **Minimum Amounts of Insurance.** Designated Service Provider shall maintain the following insurance limits:
 1. Automobile liability insurance with a minimum combined single limit for bodily injury and property damage of no less than \$1,000,000 per accident.
 2. Commercial general liability insurance shall be written with limits no less than \$1,000,000 for each occurrence, and \$2,000,000 for general aggregate.
 3. Professional liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

January 18, 2023

- C. Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions for automobile liability, professional liability, and commercial general liability insurance:
1. Designated Service Provider's insurance coverage shall be primary insurance with respect to the Jurisdiction. Any insurance, self-insurance, or insurance pool coverage maintained by Jurisdiction shall be in excess of Designated Service Provider's insurance and shall not contribute with it.
 2. Designated Service Provider shall fax or send electronically in .pdf format a copy of insurer's cancellation notice within two business days of receipt by Designated Service Provider.
 3. If Designated Service Provider maintains higher insurance limits than the minimums shown above, Jurisdiction shall be insured for the full available limits of commercial general and excess or umbrella liability maintained by Designated Service Provider, irrespective of whether such limits maintained by Designated Service Provider are greater than those required by this Agreement or whether any certificate of insurance furnished to the Jurisdiction evidences limits of liability lower than those maintained by Designated Service Provider.
 4. Failure on the part of Designated Service Provider to maintain the insurance as required shall constitute a material breach of the Agreement, upon which the Jurisdiction may, after giving at least five business days' notice to Designated Service Provider to correct the breach, immediately terminate the Agreement, or at its sole discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to Jurisdiction on demand, or at the sole discretion of the Jurisdiction, offset against funds due Designated Service Provider from the Jurisdiction.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- E. Evidence of Coverage. As evidence of the insurance coverages required by this Agreement, Designated Service Provider shall furnish acceptable insurance certificates to the Jurisdiction Clerk at the time Designated Service Provider returns the signed Agreement, which shall be Exhibit C. The certificate shall specify all of the parties who are additional insureds, and shall include applicable policy endorsements, and the deduction or retention level. Insuring companies or entities are subject to Jurisdiction acceptance. If requested, complete copies of insurance policies shall be provided to Jurisdiction. Designated Service Provider shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.
12. **Indemnification and Hold Harmless**. Designated Service Provider shall, at its sole

January 18, 2023

expense, defend, indemnify, and hold harmless Jurisdiction and its officers, agents, and employees, from any and all claims, actions, suits, liability, loss, costs, attorney's fees, costs of litigation, expenses, injuries, and damages of any nature whatsoever relating to or arising out of the wrongful or negligent acts, errors, or omissions in the services provided by Designated Service Provider, Designated Service Provider's agents, subcontractors, subconsultants, and employees to the fullest extent permitted by law, subject only to the limitations provided below.

Designated Service Provider's duty to defend, indemnify, and hold Jurisdiction harmless shall not apply to liability for damages arising out of such services caused by or resulting from the sole negligence of Jurisdiction or Jurisdiction's agents or employees pursuant to RCW 4.24.115.

Designated Service Provider's duty to defend, indemnify, and hold Jurisdiction harmless against liability for damages arising out of such services caused by the concurrent negligence of (a) Jurisdiction or Jurisdiction's agents or employees, and (b) Designated Service Provider, Designated Service Provider's agents, subcontractors, subconsultants, and employees shall apply only to the extent of the negligence of Designated Service Provider, Designated Service Provider's agents, subcontractors, subconsultants, and employees.

Designated Service Provider's duty to defend, indemnify, and hold Jurisdiction harmless shall include, as to all claims, demands, losses, and liability to which it applies, Jurisdiction's personnel-related costs, reasonable attorneys' fees, the reasonable value of any services rendered by the office of the Jurisdiction Attorney, outside consultant costs, court costs, fees for collection, and all other claim-related expenses.

Designated Service Provider specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. These indemnification obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefits acts. Provided, that Designated Service Provider's waiver of immunity under this provision extends only to claims against Designated Service Provider by Jurisdiction, and does not include, or extend to, any claims by Designated Service Provider's employees directly against Designated Service Provider.

Designated Service Provider hereby certifies that this indemnification provision was mutually negotiated.

13. **Waiver.** No officer, employee, agent, or other individual acting on behalf of either Party has the power, right, or authority to waive any of the conditions or provisions of this Agreement. A waiver in one instance shall not be held to be a waiver of any other subsequent breach or nonperformance. All remedies afforded in this Agreement or by law shall be taken and construed as cumulative and in addition to every other

January 18, 2023

remedy provided herein or by law. Failure of either Party to enforce at any time any of the provisions of this Agreement or to require at any time performance by the other Party of any provision hereof shall in no way be construed to be a waiver of such provisions nor shall it affect the validity of this Agreement or any part thereof.

14. **Assignment and Delegation.** Neither Party shall assign, transfer, or delegate any or all of the responsibilities of this Agreement or the benefits received hereunder without prior written consent of the other Party.
15. **Maintain Critical Staff.** The parties agree that key project management and critical support staff are of utmost importance for the successful completion of the Agreement. For purposes of this Agreement the following are determined to be key project management and/or critical support staff:

A. CRITICAL STAFF PERSONNEL 1 (ADD MORE AS NEEDED)

Any changes in key management and/or critical support staff must be submitted in writing and approved the Jurisdiction prior to initiating the change. In the event any Key Project Management and/or Critical Support Staff are no longer directing and/or are involved with the project without written authorization, the Jurisdiction shall determine that as a violation of the Agreement and the Designated Service Provider is subject to termination in accordance with Article 23 "Severability" of the Agreement.

16. **Subcontracts.** Except as otherwise provided herein, Designated Service Provider shall not enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of Jurisdiction.
17. **Confidentiality.** Designated Service Provider may, from time-to-time, receive information which is deemed by Jurisdiction to be confidential. Designated Service Provider shall not disclose such information without the prior express written consent of Jurisdiction or upon order of a court of competent jurisdiction.
18. **Jurisdiction and Venue.** This Agreement is entered into in Thurston County, Washington. Disputes between Jurisdiction and Designated Service Provider shall be resolved in the Superior Court of the State of Washington in Thurston County. Notwithstanding the foregoing, Designated Service Provider agrees that it may, at Jurisdiction's request, be joined as a party in any arbitration proceeding between Jurisdiction and any third party that includes a claim or claims that arise out of, or that are related to Designated Service Provider's services under this Agreement. Designated Service Provider further agrees that the Arbitrator(s)' decision therein shall be final and binding on Designated Service Provider and that judgment may be entered upon it in any court having jurisdiction thereof.

January 18, 2023

19. **Cost and Attorney's Fees.** The prevailing party in any litigation or arbitration arising out of this Agreement shall be entitled to its attorney's fees and costs of such litigation (including expert witness fees).
20. **Entire Agreement.** This written Agreement constitutes the entire and complete agreement between the Parties and supersedes any prior oral or written agreements. This Agreement may not be changed, modified, or altered except in writing signed by the Parties hereto.
21. **Anti-kickback.** No officer or employee of Jurisdiction, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in this Agreement, or have solicited, accepted, or granted a present or future gift, favor, service, or other thing of value from any person with an interest in this Agreement.
22. **Business Registration.** Designated Service Provider shall register with the Jurisdiction as a business prior to commencement of work under this Agreement if it has not already done so.
23. **Severability.** If any section, sentence, clause, or phrase of this Agreement should be held to be invalid for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of any other section, sentence, clause, or phrase of this Agreement.

The Parties have executed this Agreement this day of _____, 2023.

CITY OF LACEY

DESIGNATED SERVICE PROVIDER:

By: _____
Rick Walk
Interim City Manager

By: _____

Approved as to form:

David Schneider
City Attorney